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10/003,187	10/29/2001	Kent Massey	9698-2 US 2	4113
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23973 7590 06/16/2006

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
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18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

PARRY, CHRISTOPHER L

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument (Page 7, last ¶, lines 1-3), stating Zigmond does not supply the necessary teaching that is lacking from Haberman, the examiner respectfully disagrees. Haberman discloses providing alternative scenes having content that is associated with personal preferences (¶ 46). Haberman discloses obtaining preference information regarding customers from data mining organizations (¶ 16) and therefore fails to teach obtaining information about a particular viewer interactively from the viewer. Zigmond teaches the claimed short coming by disclosing viewer information may be provided by the viewer upon initiation of the services provided by the ad insertion device 80, such as filling out a survey or questionnaire that provides demographic data regarding the viewer such as age, sex, income, etc. (Col. 10, lines 36-63). Therefore, the combination of Haberman and Zigmond teach all the limitations recited in claim 1.

In response to applicant's argument (Page 8, 2nd ¶, lines 1-3) that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction

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based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Since Haberman fails to disclose viewer information is obtained interactively from a viewer, Zigmond is used to teach it is an obvious modification that viewer information can be obtained several ways, including obtaining the information interactively from a viewer.

In response to applicant's argument (Page 9, 1st ¶, lines 5-7), stating Shiels does not disclose a method of presenting a digital work having multiple modules in which the viewer is enabled to determine the order in which modules will be viewed, the examiner respectfully disagrees. As disclosed by Shiels, at module B shown in figure 6, the viewer can determine whether module C will be viewed before module K (B -> C -> K) or whether module H will be viewed before module K (B -> H -> K). Therefore, by the viewer making the choice to view either module C or module H, the viewer has effectively determined the order in which the modules will be viewed.

In response to applicant's argument (Page 9, 3rd ¶, lines 1-4), stating neither Haberman nor Shiels discloses or suggests that modules of a digital work include neutral scenes that are not dependant on module order and alternate scenes that are dependent on module order and that are interspersed with the neutral scenes as

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appropriate for the module order, the examiner respectfully disagrees. Shields discloses providing neutral scenes (H, J, K) in which the content (A-F) is not dependant upon the order in which the module is viewed. In figure 6, at module D, if the viewer selects to view module E first, then neutral module J, neutral module J will not be any different than if the viewer chose to view module F then neutral module J. Shields further discloses providing sets of alternative scenes (W-Z) in which the content is dependent upon the order in which the module is viewed. In figure 6, at module C, if the viewer decides to view module K, then alternative scene X will be shown. Whereas if the viewer at module C decides not to view module K, then alternative scene W will be shown. Therefore, Shields provides a set of alternative scenes that depend on the order the module is viewed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Green et al. "Green" (U.S. 6,041,310).

Regarding Claim 5, Green discloses a method for presenting digital video information used for marketing products or services to potential purchasers who can customize the content of the presented information based upon interactive viewer choices (Abstract), the method comprising the steps of: providing a plurality of potentially viewable scenes (12 – figure 1; Col. 5, lines 31-34) to deliver to a viewer in a plurality of modules (160 – figure 13), each module corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (162 – figure 13) of the product or service (Col. 11, line 66 – Col. 12, line 12). Green discloses an inventory list 120 shown in figure 12A that allows the customer to select a car to view more information regarding the car or “product”.

Green discloses, for attributes (162 – figure 13) which are common to more than one product or service, producing some of the potentially viewable scenes to provide comprehensive information about the attribute and alternative scenes to provide abbreviated information about the attribute (Col. 11, line 8 – Col. 12, line 12). Green discloses a minimum number of cars or “products” are needed to compile inventory list 120. So when if car does not exactly match the customers query, but comes close to meeting the customers query, the cars will be added to inventory list 120 in order to make a complete list. So therefore, when a customer selects a car that is an exact match to the customer’s query, the customer is provided with selected vehicle screen 160 with comprehensive scenes regarding the car. This screen may provide the customer with more information regarding the transmission, such as the car has a 4 speed automatic. When a customer later selects a car that only comes close to

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matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car may not include all the same features as a previously viewed car that matched the customer's query.

Green discloses presenting to the viewer alternative decisions that allow the viewer to select an order in which modules will be presented by disclosing inventory list 120 allows the customer to view a list of cars or "products" with common attributes and facilitates the customer to view more information regarding a car by selecting an individual car. In response to the selection, the user will view selected vehicle screen 160 or "module" and has the option to return back to inventory list 120 to select another individual vehicle. Therefore, the customer is presented with alternative decisions that allow the customer to select the order selected vehicle screen 160 or "modules" are shown.

Green discloses, enabling the viewer to make one of the alternative decisions (Col. 6, lines 37-40). Green discloses a user may input information or commands by simply using the touch screen and pressing on one of the displayed choices.

Green teaches, prompting the viewer to make one of the alternative decisions (figure 12A, Col. 11, lines 8-65). Green discloses on the top of inventory list screen 120, a prompt displayed to the customer to instruct the customer how to select a vehicle to view more information regarding the car or "product".

Green teaches, presenting to the viewer, in each module (160 – figure 13) selected by the alternative decision that can be presented in a different order, the

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scenes providing comprehensive information for attributes not previously presented to the viewer in an earlier module and the alternative scenes providing abbreviated information for attributes previously presented to the viewer in an earlier module (Col. 11, lines 8-51). When a minimum number of cars or “products” do not exactly match the customers query, the inventory list 120 will include cars or “products” that come close to matching in order to meet the minimum number of cars to be shown requirement. So therefore, when a customer selects a car that exactly matches the query, the customer is provided selected vehicle screen 160 with comprehensive scenes regarding the car. When a customer later selects a car that only comes close to matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car does not include all the same features as the previously viewed car.

Regarding Claim 6, Green discloses a method for presenting digital video information used for marketing products or services to potential purchasers who can customize the content of the presented information based upon interactive viewer choices (Abstract), the method comprising the steps of: providing a plurality of potentially viewable scenes (12 – figure 1; Col. 5, lines 31-34) to deliver to a viewer in a plurality of modules (160 – figure 13), each module corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (162 – figure 13) of the product or service (Col. 11, line 38 – Col. 12, line 12). Green discloses a customer can select an individual car or “product”

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displayed on inventory list 120 in figure 12A, and receive more selected vehicle screen 130 or “module” in response to the customer’s request, with selected vehicle screen 130 showing the features 162 or “attributes” of the selected car or “product”.

Green teaches, in at least one module (120 – figure 12A), providing basic scenes which provide information about an attribute that are presented to the viewer when the module is viewed, and providing a set of alternative scenes which are only presented to the viewer in response to an interactive request by the viewer for additional information (Col. 11, line 30 – Col. 12, line 15). Once the customer finishes compiling the query, the results are displayed on inventory list 120 or “basic scene” which provides basic information regarding attributes for each car or “product”. For example inventory list 120 provides basic information regarding the transmission of each car. If the customer would like more information regarding the transmission of a particular car, the customer can touch the description of the car to receive selected vehicle screen 130 or “alternative scenes”.

Green teaches, presenting to the viewer following a basic scene providing information about an attribute an alternative decision that allows the viewer to request or turn down additional information about that attribute by disclosing inventory list 120 or “basic scene” allows the customer to view a list of cars or “products” with common attributes and facilitates the customer to view more information regarding a car by touching the description of an individual car. In response to the selection, the user will view selected vehicle screen 160. If the customer wishes to turn the down more information, the customer can touch return to main menu 110 shown in figure 12A.

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Green teaches, enabling the viewer to make one of the alternative decisions (Col. 6, lines 37-40). Green discloses a user may input information or commands by simply using the touch screen and pressing on one of the displayed choices.

Green teaches, prompting the viewer to make one of the alternative decisions (figure 12A, Col. 11, lines 8-65). Green discloses on the top of inventory list screen 120, a prompt displayed to the customer to instruct the customer how to select a vehicle to view more information regarding the car or "product".

Green teaches, presenting to the viewer in response to the alternative decision requesting additional information the set of alternative scenes providing additional information (Col. 11, line 66 – Col. 12, line 12).

As for Claim 7, Green teaches for attributes which are common to more than one product or service, recalling whether the viewer made an alternative decision regarding the same attribute in an earlier viewed module (Col. 9, lines 15-32). Green discloses at transmission screen 90, a customer can choose which particular type of transmission is desired. By choosing a particular transmission, the system can better select vehicles that all have the same transmission or "attribute". So, therefore when inventory list 120 is compiled, the system will recall the decision made earlier at transmission screen 90 by the customer.

Green teaches, if the viewer has made an alternative decision requesting or declining additional information about the same attribute in a previously viewed module, not prompting the viewer to make the same decision in a later module by disclosing as

the customer adds to the query, the system will not ask the customer again which transmission is preferred.

4. Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. "Ellis" (U.S. 2004/0226042).

Regarding Claim 6, Ellis discloses a method for presenting digital video information used for marketing products or services to potential purchasers who can customize the content of the presented information based upon interactive viewer choices, the method comprising the steps of: providing a plurality of potentially viewable scenes (71 – figure 6B) to deliver to a viewer in a plurality of modules (70 – figure 6B), each module corresponding to a product or service (76 – figure 6B), wherein the potentially viewable scenes of each such module provide information about attributes (72 – figure 6B) of the product or service (§ 56-60). Ellis teaches in figure 6B, providing video clip previews 71 or "potentially viewable scenes" to deliver to a viewer in a program guide display 701 or "plurality of modules", each program guide display 70 corresponding to a movie 76 or "product", such as The Truman Show, wherein the video clip preview 71 of each program guide display provides information about attributes of the product. For example, if a viewer is interested in the movie The Truman Show, a viewer may choose to view the video clip 71 to view more attributes, such as the genre, of the movie.

Ellis teaches, in at least one module (70 – figure 6B), providing basic scenes which provide information about an attribute (72 – figure 6B) that are presented to the viewer when the module is viewed, and providing a set of alternative scenes which are

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only presented to the viewer in response to an interactive request by the viewer for additional information (§ 62). Ellis discloses after the video clip preview 71 is shown, a user may request more information by ordering the full-length movie and being provided the full-length movie or “set of alternative scenes”.

Ellis teaches, presenting to the viewer following a basic scene providing information about an attribute an alternative decision that allows the viewer to request or turn down additional information about that attribute (§ 62). Ellis discloses after video clip preview or “basic scene” has been provided, the viewer may be presented with a display screen inquiring whether the viewer wants to order or “be provided information about an attribute” that program or “product”. Further, the viewer may accept or decline this offer.

Ellis teaches, enabling the viewer to make one of the alternative decisions (§ 62). Ellis discloses a user may use remote 50 to make the decision.

Ellis teaches, prompting the viewer to make one of the alternative decisions (§ 62).

Ellis teaches, presenting to the viewer in response to the alternative decision requesting additional information the set of alternative scenes providing additional information (§ 62 and 71). Once the viewer decides to order the movie, the video server 29 will provide the full-length version to the viewer as requested.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haberman et al. "Haberman" (U.S. 2002/0013943) in view of Zigmond et al. "Zigmond" (U.S. 6,698,020).

Regarding Claim 1, Haberman discloses a method for the simultaneous creation, assembly and transmission of synchronous multiple personalized messages to specific targeted individuals or other entities (Abstract). Haberman teaches, "providing a plurality of potentially viewable digital video scenes to deliver to a viewer in modules containing one or more sequences of such scenes" by disclosing figure 3. Haberman discloses providing to viewers personalized messages and commercials that are more relevant given their personal situation. Personalized messages can be part of traditional broadcast (digital) television, advanced broadcast (digital) television (incl. video on demand) or streamed programs on the Internet (§ 0022). Haberman teaches creating different options or "sequences" of each slot or "modules", multiple versions of an entire video feed can be combined (§ 00040-0041).

Haberman teaches, "determining probable personal preferences of categories of viewers" by disclosing to personalize a commercial 64 for each viewer, the viewer-

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specific path through each template of the commercial 64 (i.e., the selection of the option to play for each slot) will be selected at the latest moment possible (Just-In-Time-Advertising-JITA), based on information 62, FIG. 2, available on that viewer (e.g., from customer databases) (§ 0048).

Haberman teaches, “producing some of such scenes as alternative scenes having content that is associated to such personal preferences” by disclosing in figure 6, commercial for vacationing in Bermuda which can be customized to showcase a variety of activities to a viewer. Further, STB 58 can make the final selection from the parts by matching the personalization information 62 against the user profile for each of the possible choices (§ 0040-0041 and 0046-0053).

Haberman teaches “structuring the work such that at least one module contains a scene sequence in which an alternative scene can be interspersed with other scenes in response to information obtained...about a particular viewer” by disclosing in figure 6, an example of a commercial that is customized based on the viewers sex, and hobbies or interest. In this commercial shown in figure 6, for example, a slot or “module” is provided for default activity that comprises three or more activities that can be shown to the viewer depending on the known sex of the viewer and the known interests about the viewer. For example a young woman may be targeted with sequence about tennis and a young family may be targeted with a sequence about scuba. Haberman further discloses information can be obtained about viewers from data mining organizations (§ 16). Therefore, information about the viewer, like interests and hobbies, can be

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interspersed with other scenes within a commercial so a personalized message can be created and targeted towards a specific demographic of viewer.

Although, Haberman teaches the use of user profile information to deliver alternative sequences of scenes, Haberman fails to explicitly disclose a means for obtaining interactively information about a particular viewer and using that interactively obtained information to deliver a scene sequence that contains alternative scenes that are associated with the personal preferences the viewer is characterized to have.

In an analogous art, Zigmond teaches, obtaining information about a particular viewer in order to characterize the viewer as having a personal preference, the information obtained interactively (Col. 10, lines 36-63). Zigmond discloses ad insertion system 80 may request the viewer enter his/her demographic information by completing a survey about the viewer, such as age, sex, income, etc. and the data is stored at storage location 82 shown in figure 5 (Col. 10, lines 16-63).

Zigmond further teaches, in response to information obtained interactively about a particular viewer, delivering to the viewer a scene sequence containing an alternative scene that is associated to the personal preference the viewer is characterized to have (Col. 11, lines 31-65). Zigmond discloses, information obtained interactively from the viewer and stored in storage location 82 is used in combination with ad selection criteria 83 in order to select appropriate advertisements to be displayed to the viewer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Zigmond in order to

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provide a means for learning information about a particular viewer in order to characterize the viewer as having a personal preference and in response to information learned about a particular viewer, delivering to the viewer a scene sequence containing an alternative scene that is associated to the personal preference the viewer is characterized to have. One would have been motivated to make this modification for the benefit of providing a system for delivering and displaying advertisements where the advertisements can be more accurately targeted towards viewers (Zigmond – Background).

As for Claim 2, the combination of Haberman and Zigmond disclose, in particular Haberman teaches, “wherein the work is used for marketing goods or services to potential purchasers, the plurality of potentially viewable digital scenes conveying information about a include containing potentially viewable scenes about such goods or services” by disclosing in figure 6, a detailed example of a video template set up for a campaign to provide personalized commercials for vacationing in Bermuda (§ 0046-0049). Video template comprises multiple slots configured to target the commercial towards a demographic and towards an interest of the user. For example, referring to figure 6, a young woman can be targeted with a personalized commercial for vacationing in Bermuda that showcases scuba diving. Also a young family can be targeted that has interest in playing golf while vacationing in Bermuda. Haberman teaches, “the personal preferences are preferences for the use of such goods or services” by disclosing to personalize a commercial 64 for each viewer, the viewer-

specific path through each template of the commercial will be selected at the latest moment possible, based on information 62, available on the viewer or “personal preferences” (¶ 0048). These preferences can be used for example to target a commercial for vacationing in Bermuda to a young family who has interests that include scuba diving as shown in figure 6.

7. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haberman in view of Shiels et al. “Shiels” (U.S. 5,737,527).

Regarding Claim 3, Haberman discloses a method for presenting a digital video work for marketing products or services to potential purchasers who can customize content based upon viewer preferences (Abstract), the method comprising the steps of: providing a plurality of potentially viewable scenes to deliver to a viewer in a plurality of modules, each module containing potentially viewable scenes about a product or service by disclosing figures 3 and 6. Haberman teaches creating different options or “sequences” for each slot or “module”, where multiple versions of an entire video feed can be combined (¶ 00040-0041).

Haberman teaches, presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the subsequent module is presented by disclosing in figure 6, common or “neutral scenes” in slots D-5 and D-11. The common or “neutral scenes” will be shown in the commercial and viewed

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by everyone no matter whether the target audience be a young woman or a young family.

However, Haberman fails to explicitly disclose at least one of the modules, presenting to the viewer alternative decisions that will determine an order in which at a subsequent module will be presented; enabling the viewer to make one of the alternative decisions; in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, and providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed; and prompting the viewer to make one of the alternative decisions that will determine the order of a subsequent module.

In an analogous art, Shiels discloses in figure 6, a branched narrative structure starting with a common introductory portion (Col. 7, lines 2-46). Shiels teaches, "in at least one of the modules, presenting to the viewer alternative decisions that allow the viewer to determine an order in which a subsequent module will be presented" by disclosing at branch node A or "module" asking the user as to which path the narrative will take, with the user navigating through the network of possible story lines to reach one of the four possible endings and effectively determining the order in which the modules are viewed (Col. 7, lines 5-8). Shiels further teaches a menu of possible options may be displayed asking the user to make a selection using a user input device (Col. 7, lines 33-40).

Shiels teaches, “enabling the viewer to make one of the alternative decisions” by disclosing a list of options will be displayed to the viewer when a decision is need (Col. 7, lines 33-40).

Shiels teaches, “in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, and providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed” by disclosing common nodes H, J, and K which may appear in the narrative regardless of which path is chosen at node A (Col. 7, lines 2-18). Shiels further teaches providing alternative ending scenes W-Z, which are dependent on the decisions, made by the viewer at the previous nodes or “modules” (Col. 7, lines 2-46).

Shiels further teaches, “prompting the viewer to make one of the alternative decisions that will determine the order of a subsequent module” by disclosing the existence of an interaction period may be indicated to the viewer by displaying a menu of possible options on the screen and allowing to user to select one of the displayed options (Col. 7, lines 32-46).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Shiels in order to prompt the viewer to make on of the alternative decisions that will determine the order of a subsequent module and providing neutral scenes that do not depend from the alternative scenes that were previously chosen. One would have been motivated to

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make this modification for the benefit of facilitating user interaction with branch-structured commercial to better personalize the commercial for the viewer (Shiels – Summary).

As for Claim 4, Haberman and Shiels disclose, in particular Haberman teaches, “the step of presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the module is presented includes presenting alternate scenes to avoid repeating information already conveyed to the viewer in previous scenes” by disclosing in figure 3, the system may keep track of which segments were previously shown to any audience, so in a next transmission, different segments not before seen by the audience can be shown (§ 0040-0042).

Note to Applicant

8. Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all future correspondence indicate the new designation 2623.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Parry whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:30 AM EST to 4:30 PM EST.

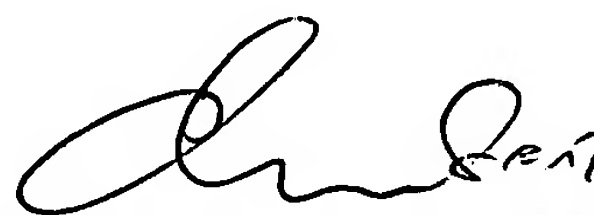
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiners Initials:
June 9, 2006

CLP



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TECHNOLOGY CENTER 2600**